

**WILTON ZONING BOARD OF APPEALS**  
**THURSDAY, June 27, 2024**

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, June 27, 2024, at Wilton Town Hall and was called to order by Chairman O'Brien at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

**PRESENT:** Chairman O'Brien, Vice Chairman Christopher Ramsdill, Nicholas Collins, Scott Duffy, Christopher Iwinski, Scott Kingsley, Jay Rifenburg, and Scott Dussault, 2<sup>nd</sup> alternate. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney, Mark Mykins, Zoning Officer, and Lisa Closson, Zoning Clerk.

**ABSENT:** Andrew Bobbitt, 1<sup>st</sup> alternate.

**MINUTES:** The minutes of the last meeting, held on May 23, 2024, were approved, as submitted, on a motion made by Mr. Kingsley, seconded by Mr. Duffy. All board members present were in favor. The motion passed.

**CORRESPONDENCE:** None other than what is presented before the board.

**EXTENSIONS:** \*SPECIAL USE PERMIT EXTENSIONS ARE NOT SUBJECT TO A PUBLIC HEARING\*

**SUP NO. 1995-23** Ralph and Patricia Benincasa, 69 Edie Road, Saratoga Springs, New York 12866. Request for an extension of a Special Use Permit, pursuant to §129-26 (B) of the Zoning Ordinance, for the boarding of horses; property located at 69 Edie Road, Tax Map No. 154.-1-12.121, zoned R-2, in the Town of Wilton. SUP No. 1995-23, originally granted on July 27, 1995 for a period of two years with a maximum of 14 horses, continually extended, is due for review and extension on or before July 27, 2024.

Mr. O'Brien read correspondence from Patricia Benincasa, 69 Edie Road, requesting to have her special use permit extended.

Mr. Rifenburg made a motion to approve the extension of SUP No. 1995-23, Ralph and Patricia Benincasa, 69 Edie Road, Saratoga Springs, New York 12866, for an additional three years. Request for an extension of a Special Use Permit, pursuant to §129-26 (B) of the Zoning Ordinance, for the boarding of horses; property located at 69 Edie Road, Tax Map

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No. 154.-1-12.121, zoned R-2, in the Town of Wilton. SUP No. 1995-23 will be due for review and extension on or before July 27, 2027. Mr. Iwinski seconded the motion. Mr. O'Brien, Mr. Ramsdill, Mr. Collins, Mr. Duffy, Mr. Iwinski, Mr. Kingsley, and Mr. Rifenbary were in favor. The motion passed.

**SUP NO. 2004-45** Wendy Zwijacz, 20 Bullard Lane, Saratoga Springs, New York 12866. Request for an extension of a Special Use Permit, pursuant to §129-26 (G) and §129-176 (V) of the Zoning Ordinance, for the keeping of agricultural animals; property located at 19 Strong Road, Tax Map No. 102.-1-35.2, zoned R-2, in the Town of Wilton. SUP No. 2003-29, originally granted on July 24, 2003, amended on October 28, 2004 (SUP No. 2004-45), for a period of two years with a maximum of 25 animals, continually extended, is due for review and extension on or before July 27, 2024.

Wendy Zwijacz, 20 Bullard Lane, was present. Mr. O'Brien confirmed with Mr. Mykins that there are no issues with the property.

Mr. Rifenbary asked what animals were on the property and Ms. Zwijacz stated horses, cows, goats and chickens.

Mr. Kingsley made a motion to approve the extension of SUP No. 2004-45, Wendy Zwijacz, 26 West Lane, Gansevoort, New York 12831, for an additional three years. Request for an extension of a Special Use Permit, pursuant to §129-26 (G) and §129-176 (V) of the Zoning Ordinance, for the keeping of agricultural animals; property located at 19 Strong Road, Tax Map No. 102.-1-35.2, zoned R-2, in the Town of Wilton. SUP No. 2004-45 will be due for review and extension on or before July 27, 2027. Mr. Rifenbary seconded the motion. Mr. O'Brien, Mr. Ramsdill, Mr. Collins, Mr. Duffy, Mr. Iwinski, Mr. Kingsley, and Mr. Rifenbary were in favor. The motion passed.

**OLD BUSINESS:**

**Appeal No. 2024-06** Quaker Springs PV I, LLC, 200 Portland Street, 5<sup>th</sup> Floor, Boston, Massachusetts, 02114. Request for a Use Variance pursuant to Schedule B, R-2 District of the Zoning Ordinance; properties located on Jones Road and Perry Road, Saratoga Springs, New York, 12866, Tax Map Nos.' 140.-2-6.12 and 140.-2-55, zoned R-2, in the Town of Wilton.

**\*The public hearing has been left open from the March 28, 2024 ZBA meeting. No new information was submitted. Applicant was not present.**

**NEW BUSINESS:**

Appeal No's. 2024-14 and 2024-15 were heard before Appeal No's. 2024-12 and 2024-13.

**Appeal No. 2024-14** Cellco Partnership, d/b/a Verizon Wireless, for Church of God of Glens Falls, 1275 John Street, Suite 100, West Henrietta, New York , 14586. Request for a Use Variance pursuant to Schedule B, Residential District 2, of the Zoning Ordinance;

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property located at 4330 Route 50, Saratoga Springs, New York 12866, Tax Map No. 128.-1-83.21, zoned R-2, in the Town of Wilton.

Mr. O'Brien read correspondence for both Appeal No. 2024-14 and 2024-15 from SCPB (Saratoga County Planning Board) expressing no significant county wide or intercommunity impact, and from WPB (Wilton Planning Board) for a positive recommendation to the ZBA for both a Use and Area Variance.

Dave Brennan and his son Jack Brennan, from Young/Sommer, LLC, were present to represent Verizon Wireless. Rick Andres, an RF engineer, and Sarah Coleman, a Site Acquisition Specialist from Airosmith.

Young Mr. Brennan explained they were looking for an Area Variance and a Use Variance because Town Code says there can not be cell towers in residential districts, and also an area variance for the fall zone at 150% of the tower height.

Mr. Brennan showed a presentation of slides from the Visual Assessment, coverage maps, and site drawings. He explained the utilities will be fed from Route 50 up through the parking lot and access to the tower would be along an existing curb cut and trail (off West Lane). He further explained there would be a gate on the access and once the tower is constructed, Verizon visits three times a year. He continued to speak about the site, the generator, and the ability for the tower to hold up to three or four additional carriers.

Mr. Rifenburg asked if the tower would be noticeable without the leaves? Discussion continued.

Mr. Rifenburg asked if other locations were looked at? Mr. Ramsdill explained there is a section in the book with three other locations. Mr. Brennan explained the towers are typically centrally located so that every sector is spreading out and covering part of the area at 360° around the tower. Discussion continued regarding population, Use Standard as a Public Utility standard, and coverage maps.

Mr. Kingsley asked when the Balloon test was done, was that publicly noticed? Mr. Brennan said it was placed in the paper, adjacent landowners were notified, and Ms. Closson said it was placed on the Town website.

Mr. Ramsdill asked about a break point in the tower because of a pretty substantial amount of falling onto the property to the north. Discussion continued regarding the 150% fall zone, distance to neighboring property lines, and placing a break point in the tower.

Mr. Collins asked if the generator is just for emergency back up or for loss of power. Mr. Brennan said it comes on once every two weeks and exercises for about 20 minutes...and there is one outside his office...that he has heard once in ten years running and it sounds like an air conditioner.

Mr. O'Brien opened the public hearing at 7:25 p.m.

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Maureen Rossley, 25 West Lane, wondered, if the Church has that beautiful huge driveway to Route 50, why the applicant would need another road to this tower from West Lane through the woods that has animals and everything is overgrown.

Mr. Brennan stated he was under the impression there was a woods trail through there and apologized if he looked at something that was not there (on Google Earth). Mrs. Rossley said she has lived there for 34 years, and the woman who gave the church the property, Virginia Pulaski, said that they (the church) would never use that side of the property (West Lane) for anything to do with the church.

Mr. Brennan didn't understand the corresponding concern. If there will be a gated road used three times a year; why is there an objection.

Mark Costello, Jr., 15 West Lane, said he is the most affected by this tower. It is on his property and watched the balloon go up. They are worried about the radiation and how it affects property values...They (the applicant) could put it on that property without hitting any property lines, they have 25 acres there. Mr. Ramsdill clarified that the tower itself will not be on the property, rather it is the side where the variance is needed. Mr. Costello, Jr., said they could move the tower 240 ft. south, but they would still be getting microwaves. He continued to speak of radiation, property values, and other locations. There was discussion on federal standards for emissions.

Lisa Costello, 15 West Lane, would like an example of the decibels of the generator. She said they have a nice quite plain they live on, and would not want access through the field that is overgrown with trees. There are deer and 20 turkeys that roost in there. She does not want access from West Lane. There was discussion on generators.

Isolde Boyd, 22 West Lane, spoke of wetlands on the access road proposed from the applicant off West Lane.

Andrew Talbot, 116 Ingersoll Road, an environmental engineer, asked if any initial environmental studies were done. Mr. Kingsley shared a negative declaration was given by lead agency (WPB) for an EAF (Environmental Assessment Form). Mr. Talbot said the tower has got to follow FCC protocol and is going to require a NEPA (National Environmental Policy Act-explained by Mr. Schachner later in the public hearing) review, and raised concerns from an environmental standpoint.

Mr. Ramsdill explained that these issues are going to be addressed by WPB, and the ZBA is just looking at the Use Variance and Area Variance. Discussion continued regarding the Use Variance between Mr. Ramsdill and Mr. Talbot.

Mrs. Rossley asked if they get notified by WPB? There was discussion about notifications for public hearings and the scheduled public hearing for WPB for Wednesday, July 17, 2024. She then raised concern about access from West Lane. There was discussion on deed restrictions and previous approvals.

Jean Derush, 26 West Lane, said she saw the balloon from the other side of the tracks on her property, and asked why this can't be put on King Road with the solar farms. There was discussion on the distance to King Road and coverage.

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Mr. O'Brien closed the public hearing at 7:39 p.m.

Mr. Ramsdill discussed with Mr. Brennan why the access (on the plan) was coming in from the rear and not from Route 50, and Mr. Brennan said they (the applicant) will work with the Board and the community on the access.

Mr. Brennan addressed the concerns raised of radiofrequency emissions, noise level for the generator, property values, the animals, clearing trees, wetlands, and environmental studies, including NEPA. Mr. Schachner explained NEPA is an acronym for National Environmental Policy Act, a federal statute very similar to the state environmental review and SEQRA (State Environmental Quality Review Act). Mr. Ramsdill commented on the location and potentially moving the cell tower then referred to the proposed coverage map showing minimal overlapping of coverage. Mr. Brennan then spoke of instances where the cell towers are camouflaged as trees.

Mr. Kingsley added that in this day and age, mobile devices are a necessity, just as much as having electric and running water. More and more people are running video and data streaming, that technology is going to require more towers.

Mr. Collins spoke about the option of a breakpoint on the tower and access from Route 50 as conditions on a motion. Mr. Rifenbary agreed. Discussion continued.

Mr. Ramsdill made a motion to approve Appeal No. 2024-14, Cellco Partnership, d/b/a Verizon Wireless, for Church of God of Glens Falls, 1275 John Street, Suite 100, West Henrietta, New York 14586. Request for a Use Variance pursuant to Schedule B, Residential Two District, of the Zoning Ordinance; property located at 4330 Route 50, Saratoga Springs, New York, 12866, Tax Map No. 128.-1-83.21, zoned R-2, in the Town of Wilton, was granted, conditioned on no access from West Lane and a break point installed on the monopole to minimize the potential for impact on the neighbors, because: 1. The Telecommunications Tower is classified as a public utility under State Law, and the applicant has demonstrated that the proposed facility/tower is required in order to improve quality or quantity of its coverage by showing this project is needed to render safe and adequate service in cellular telephone and data coverage to fill areas of the town where no coverage occurs. 2. The applicant has demonstrated a compelling reason which makes it infeasible to pursue some alternative.

Mr. Kingsley seconded the motion. Mr. O'Brien, Mr. Ramsdill, Mr. Collins, Mr. Duffy, Mr. Iwinski, Mr. Kingsley, and Mr. Rifenbary were in favor. The motion passed.

**Appeal No. 2024-15** Cellco Partnership, d/b/a Verizon Wireless, for Church of God of Glens Falls, 1275 John Street, Suite 100, West Henrietta, New York , 14586. Request for an Area Variance pursuant to §129-176 L. (7)(b), of the Zoning Ordinance; property located at 4330 Route 50, Saratoga Springs, New York 12866, Tax Map No. 128.-1-83.21, zoned R-2, in the Town of Wilton.

Mr. Brennan explained the fall zone variance needed. Mr. Ramsdill asked what the side yard setback variance would need to be with the breakpoint. Mr. Mykins said it would remain the same.

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Mr. O'Brien opened and closed the public hearing at 8:01 p.m. due to lack of public comment.

Mr. Ramsdill made a motion to approve Appeal No. 2024-15, Cellco Partnership, d/b/a Verizon Wireless, for Church of God of Glens Falls, 1275 John Street, Suite 100, West Henrietta, New York 14586. Request for an Area Variance pursuant to §129-176 L. (7) (b) of the Zoning Ordinance; property located at 4330 Route 50, Saratoga Springs, New York, 12866, Tax Map No. 128.-1-83.21, zoned R-2, in the Town of Wilton, be granted, for a proposed telecommunications tower in the amount of relief of 59 ft. fall zone, property located at 4330 Route 50, Saratoga Springs, New York, 12866, Tax Map No. 128.-1-83.21, zoned R-2, in the Town of Wilton, was granted, conditioned on no access from West Lane and a break point installed on the monopole to minimize the potential for impact on the neighbors for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because the pole has been conditioned to have a break point which will reduce the potential for debris spill out into neighboring properties. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variance because the location of the siting is on a cleared area on the property and preserves the wildlife on the rear of the property, and avoids the wetlands and the stream. 3. The applicant has demonstrated that the requested Area Variance is not substantial with the break point which greatly diminishes the likelihood of any debris scattering out at the fall distance at 1 and ½ times the height. 4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because the breakpoint will reduce any likelihood of any elements of the pole falling off this particular lot. 5. The applicant has demonstrated that the alleged difficulty was self created.

Mr. Iwinski seconded the motion. Mr. O'Brien, Mr. Ramsdill, Mr. Collins, Mr. Duffy, Mr. Iwinski, Mr. Kingsley, and Mr. Rifenburg were in favor. The motion passed.

**Appeal No. 2024-12** Matthew Stawarz and Samantha Garwood, 126 Ingersoll Road, Saratoga Springs, New York, 12866. Request for an Area Variance pursuant to §129-157 and Schedule B, R-2 District of the Zoning Ordinance; property located at 126 Ingersoll Road, Tax Map No. 154.-1-59.2, zoned R-2, in the Town of Wilton.

Matthew Stawarz and Samantha Garwood, 126 Ingersoll Road, were present. Mr. Stawarz explained his application.

Mr. Ramsdill asked the applicant why they want to put the shed in the south side yard versus the other side of the house. Mr. Stawarz said it was due to the transfer switch being on that side of the house.

Mr. O'Brien opened and closed the public hearing at 8:06 p.m. due to lack of public comment.

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Mr. Iwinski made a motion to approve Appeal No. 2024-12, Matthew Stawarz and Samantha Garwood, 126 Ingersoll Road, Saratoga Springs, New York, 12866. Request for an Area Variance pursuant to §129-157 and Schedule B, R-2 District of the Zoning Ordinance; property located at 126 Ingersoll Road, Tax Map No. 154.-1-59.2, zoned R-2, in the Town of Wilton, be granted, for 28.5 ft. south side yard setback relief, for a proposed 194 sq. ft. shed; property located at 126 Ingersoll Road, Tax Map No. 154.-1-59.2, zoned R-2, in the Town of Wilton, was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because the shed will fit in line with everything else and is spaced equally between the house and the side yard lot line. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variance because the electrical service is on that side of the house. 3. The applicant has demonstrated that the requested Area Variance is not substantial. 4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district. 5. The applicant has demonstrated that the alleged difficulty was self-created.

Mr. Collins seconded the motion. Mr. O'Brien, Mr. Ramsdill, Mr. Collins, Mr. Duffy, Mr. Iwinski, Mr. Kingsley, and Mr. Rifenbary were in favor. The motion passed.

**Appeal No. 2024-13** Joseph and Colleen Patterson, 210 Gurn Springs Road, Gansevoort, New York, 12831. Request for an Area Variance pursuant to Schedule B, R-2 District of the Zoning Ordinance; property located at 210 Gurn Springs Road, Tax Map No. 102.-1-35.111, zoned R-2, in the Town of Wilton.

Mr. O'Brien read correspondence from SCPB stating no significant county wide or intercommunity impact.

Roy Sweet, 1 Oakwood Drive, Glens Falls, was present along with Colleen Patterson and her daughter Ashely Patterson, 210 Gurn Springs Road. Mr. Sweet explained the proposed subdivision. Mr. Ramsdill discussed with Mr. Sweet the existing lot and the proposed lots are both compliant, just one lot doesn't have enough frontage.

Mr. O'Brien opened and closed the public hearing at 8:11 due to lack of public comment.

Mr. Iwinski made a motion to approve Appeal No. 2024-13, Joseph and Colleen Patterson, 210 Gurn Springs Road, Gansevoort, New York, 12831. Request for an Area Variance pursuant to Schedule B, R-2 District of the Zoning Ordinance; property located at 210 Gurn Springs Road, Tax Map No. 102.-1-35.111, zoned R-2, in the Town of Wilton, be granted, for 203.51 ft. frontage relief for proposed lot B1; property located at 210 Gurn Springs Road, Tax Map No. 102.-1-35.111, zoned R-2, in the Town of Wilton, was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance

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because it will add to the décor of the property and there is such a large amount of land, just not enough road frontage. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variance because the existing parcel does not have 500 ft. of road frontage. 3. The applicant has demonstrated that the requested Area Variance is substantial, but the subdivision will meet the requirements for parcel size, just not road frontage. 4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because it will not change the neighborhood, it is secluded, and it's just family. 5. The applicant has demonstrated that the alleged difficulty was not self-created because the original parcel does not have 500 ft. of road frontage.

Mr. Duffy seconded the motion. Mr. O'Brien, Mr. Ramsdill, Mr. Collins, Mr. Duffy, Mr. Iwinski, Mr. Kingsley, and Mr. Rifenburg were in favor. The motion passed.

**Adjournment:**

Mr. Collins made a motion to adjourn. Mr. Duffy seconded the motion. Mr. O'Brien, Mr. Ramsdill, Mr. Collins, Mr. Duffy, Mr. Iwinski, Mr. Kingsley, and Mr. Rifenburg were in favor. The meeting was adjourned at 8:14 p.m.

**Dated: June 28, 2024**

**BOARD OF APPEALS**

**BY** \_\_\_\_\_

**Lisa Closson, Zoning Clerk**

**BY** \_\_\_\_\_

**Joseph O'Brien, Chairman**